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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,010	10/19/2004	Erik Johnsson	35301	8399

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HOVEY WILLIAMS LLP
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KANSAS CITY, MO 64108

EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/512,010

Applicant(s)

JOHNSON ET AL.

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 29-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-19, 23-30 and 32-34 is/are rejected.
- 7) ☒ Claim(s) 6, 20-22 and 35-37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-16, 23-26, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent EP 0207572 to Van der Lely in view of U.S. Patent No. 6,321,682 to Eriksson et al.

Regarding Claim 1, Van der Lely teaches at a minimum at least one milking stall (Van der Lely Fig. 1 and abstract) adapted to receive an animal to be milked comprising a milking machine having a number of teatcups (Van der Lely #14 and #15), but is silent on explicitly teaching a number of stations; however, merely duplicating the known element of a milking stall would have been an obvious modification for one of ordinary skill in the art for a multiple effect to accommodate a plurality of cows in an efficient manner for large scale dairy operations [*In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960)]. Van der Lely as modified teaches a device for cleaning the teats of an animal including at least one first conduit member (Van der Lely Fig. 3 #24 and page 9 line 36–38) and at least one teat-cleaning member (Van der Lely Fig. 2 #16) which is connectable via the first conduit member to a central arrangement for supplying cleaning liquid and discharging waste liquid wherein: the teat-cleaning member includes at least two teat-cleaning cups (Van der Lely #16 connected to #17 of Fig. 3

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and page 9 line 1-2) to be applied to a respective teat of the animal, the conduit assembly and two second conduit member (Van der Lely #24 and 25 above element #34 of Fig. 3) extending between a respective one of the teat-cleaning cups and the conduit assembly and wherein each teat-cleaning cup is connected to the central arrangement via the respective second conduit member and the first conduit members for supplying of cleaning liquid and providing for discharging of waste liquid.

Van der Lely as modified is silent on explicitly teaching that the cleaning device is separate from and fluidically remote from the milking machine. However, Eriksson et al teaches that it is general knowledge in the art of animal husbandry that the cleaning and milking devices and functions can be performed in combination or entirely separate (Eriksson Col.5 line 45-48). Merely separating out known functions/equipment does not present a patentably distinct limitation over the prior art of record. One of ordinary skill in the art would be motivated to separate out the cleaning as a hygienic measure to prevent dirt and bacteria from entering the milking stream and the milking function might not be desired at all times when cleaning. Thus eliminating the cleaning function from the milking equipment and/or eliminating the milking function from the cleaning equipment is an obvious modification for one of ordinary skill in the art [In re Kuhle, 526 F.2d 553, 188 UPSQ 7 (CCPA 1975)].

Regarding Claims 2 and 4, Van der Lely as modified teaches the central arrangement (Van der Lely water under pressure through #24) is arranged to discharge the waste (Van der Lely #25) liquid by applying a pressure significantly lower than the atmospheric pressure to the teat-cleaning cups via the conduit members

Regarding Claims 3, Van der Lely as modified teaches supply conduit (Van der Lely #24) and discharge conduit (Van der Lely #25) for each teat cleaning cup.

Regarding Claims 5, 7 and 8, Van der Lely as modified teaches a connection member (Van der Lely Fig. 3 #34).

Regarding Claims 10 and 11, Van der Lely as modified teaches a grip member (Van der Lely #19).

Regarding Claim 12-14 and 16, Van der Lely as modified teaches a carrying arrangement (Van der Lely Fig. 3 #37) to permit the teat cleaning member to be movable from inactive to an active position (Van der Lely #41).

Regarding Claim 15, Van der Lely as modified teaches the carrying arrangement adapted to permit the teat cleaning member to be attached to the animal and follow the animal during movement (applicant has not claimed free movement or a length of movement, thus Van der Lely's device does move at least an inch to the left or right side if the animal sways slightly in either direction).

Regarding Claim 23, Van der Lely as modified teaches the teat cleaning cup includes a lower end and an upper end with an inner space, the upper end defining an opening for the introduction of the teat to be cleaned (Van der Lely Fig. 2 #17).

Regarding Claims 24 and 25, Van der Lely as modified teaches a flexible lip (Van der Lely #19).

Regarding Claim 26, Van der Lely as modified teaches the teat-cleaning device includes a retracting member (Van der Lely Fig. 1 #8 and 9).

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Regarding Claim 29, Van der Lely as modified teaches a plurality of milking stalls, but is silent on the configuration of the milking stall. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Van der Lely at the time of the invention since the modification is merely a duplication of a known element for a multiple effect and the configuration is merely an engineering design choice involving the selection of a known milking stall configuration to efficiently meet the needs of the farmer depending on the size of the herd and space constraints [*In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1990)].

Regarding Claim 30, Van der Lely as modified teaches a pneumatic application of the teat cups (Van der Lely #9), but is silent on explicitly teaching it is automatic. However, it is old and well-known to provide automatic milking equipment for large scale dairy farms to reduce labor for fast and efficient operations. It would have been obvious to one of ordinary skill in the art to modify the teachings of Van der Lely at the time of the invention since the engineering design choice of automating a system is an obvious modification for one of ordinary skill in the art for efficient operation [*In re Venner*, 262 F.2d 91, 95, 120 USPQ 192, 194 (CCPA 1958)].

Regarding Claim 9, Van der Lely as modified is silent on the second conduit member being rigid. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Van der Lely at the time of the invention since the modification is merely an engineering design choice involving the selection of a known material to prevent kinking in the lines.

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Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent EP 0207572 to Van der Lely in view of U.S. Patent No. 6,321,682 to Eriksson et al as applied to claim 1 and 12 above, and further in view of U.S. Patent No. 6,401,654 to Hallsten et al.

Regarding Claim 17, Van der Lely is silent on a carrying arrangement including a rail and carriage and the teat-cleaning member being suspended from the carriage via a wire member. However, Hallsten teaches a teat-cleaning device suspended from a carriage via a wire member (Hallsten Fig. 1 #55, #1 and Fig. 5). It would have been obvious to one of ordinary skill in the art to modify the teachings of Van der Lely with the teachings of Hallsten at the time of the invention for storage as taught by Hallsten (Hallsten Col. 1 line 35).

Regarding Claim 18, Van der Lely as modified teaches at least one holding member (Hallsten Fig.1 #53).

Regarding Claim 19, Van der Lely as modified teaches the holding member forms an open passage through which the first conduit member is movable (Hallsten Fig. 1 #53 has a passage).

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent EP 0207572 to Van der Lely in view of U.S. Patent No. 6,401,654 to Hallsten et al.

Regarding Claim 32, Van der Lely teaches a device for cleaning the teats of an animal including at least one first conduit member (Van der Lely Fig. 3 #24 and page 9

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line 36–38) and at least one teat-cleaning member (Van der Lely Fig. 2 #16) which is connectable via the first conduit member to a central arrangement for supplying cleaning liquid and discharging waste liquid wherein: the teat-cleaning member includes at least two teat-cleaning cups (Van der Lely #16 connected go #17 of Fig. 3 and page 9 line 1-2) to be applied to a respective teat of the animal, the conduit assembly and two second conduit member (Van der Lely #24 and 25 above element #34 of Fig. 3) extending between a respective one of the teat-cleaning cups and the conduit assembly and wherein each teat-cleaning cup is connected to the central arrangement via the respective second conduit member and the first conduit members for supplying of cleaning liquid and providing for discharging of waste liquid.

Van der Lely is silent on a carrying arrangement including a rail and carriage and the teat-cleaning member being suspended from the carriage via a wire member. However, Hallsten teaches a teat-cleaning device suspended from a carriage via a wire member (Hallsten Fig. 1 #55, #1 and Fig. 5). It would have been obvious to one of ordinary skill in the art to modify the teachings of Van der Lely with the teachings of Hallsten at the time of the invention for storage as taught by Hallsten (Hallsten Col. 1 line 35).

Regarding Claim 33, Van der Lely as modified teaches at least one holding member (Hallsten Fig.1 #53).

Regarding Claim 34, Van der Lely as modified teaches the holding member forms an open passage through which the first conduit member is movable (Hallsten Fig. 1 #53 has a passage).

Allowable Subject Matter

The indicated allowability of claims 17-19 and 32-34 are withdrawn in view of the rejections based on the newly cited reference(s) above.

Claim 31 is allowed.

Claims 6, 20-22, and 35-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 7-16, 23-26, 29 and 30 have been considered but are moot in view of the new ground(s) of rejection.

Examiner maintains that merely separating out the known cleaning and milking functions and equipment into two separate steps and devices does not present a patentably distinct limitation. The concept of having separate cleaning devices is old and notoriously well-known e.g. U.S. Patent No. 5,235,937; U.S. Patent No. 2,532,088; and U.S. Patent Pub. No. US 2002/0185071. These are just a few examples of separate cleaning devices that teach it is a hygienic measure to clean the teats before milking with a separate cleaning device. It is not necessary to use the same teat cup for cleaning and milking combined. Separating the equipment reduces the likelihood of contamination/dirt from entering the milk stream.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrea M. Valenti
Primary Examiner
Art Unit 3643

06 February 2007